

### Remarks

Claims 1-20 are currently pending and claims 1-18 have been amended. Applicants assert that all claims are in condition for allowance as set forth more fully below.

### Interview Summary

The undersigned participated in a telephone interview with the Examiner on November 30, 2004. During the interview, the rejection of the claims based on Sprague including a rigid support on the second end of a shaft was clarified. Additionally, the 112 rejections to the claims were clarified.

### Double Patenting Provisional Rejections

Claims 1-20 have been provisionally rejected under the doctrine of double patenting over other commonly owned copending applications. Terminal disclaimers referencing each of the copending applications has been submitted herewith. Accordingly, Applicants request that the double patenting rejection be withdrawn.

### Objections to the Drawings

The Examiner has objected to the drawings for failing to show a pusher being tapered, as recited in claim 12. However, FIG. 4A shows a taper to the pusher 46, and the specification at paragraph [0035] describes the pusher 46 of FIG. 4a as being tapered. Therefore, it is respectfully requested that the objection to the drawings be withdrawn.

### 112 Rejections

Claims 1-20 have been rejected under 35 USC 112 as being indefinite. Claim 1 has been rejected due to a support device and pusher being claimed. Claim 1 has been amended to more clearly recite that the pusher is an element of the support device. Claims 16 and 17 have been rejected due to driving device lacking antecedent basis and the means clauses being improper. Driving device has been removed from these claims, and the means clauses have been rephrased. Claim 16 has also been rejected due to inconsistency between the preamble and the body. Claim 16 has been further amended to

more clearly recite that the pusher is an element of the support device that is being claimed. Claim 18 has been rejected due to a support device and a pusher being claimed, lack of inter-relation of elements, and use of the phrase “or more”. Claim 18 has been amended to more clearly recite that an assembly is being claimed that includes both a support device including a pusher and a powder driven device. Claim 18 has also been amended to recite an inter-relation between the elements and “or more” has been removed. Accordingly, in view of the amendments to the claims, it is respectfully requested that these 112 rejections be withdrawn.

### 102 Rejections

Claims 1-6, 8, and 10-17 are rejected under 35 USC 102(e) as being anticipated by Sprague (US 2004/0064932). Applicants respectfully traverse these rejections.

Amended claim 1 recites in part at least one rigid support member disposed on the second end of the shaft for supporting an object from the device, the at least one rigid support member being integral with the shaft and a pusher integral to the second end of the shaft and adapted to drive the shaft into the pole. Claim 16 has similar recitations including means for extending integrally from the receiving means and being integrally attached to the shaft and means for providing rigid support for an object that is disposed integrally on the shaft. Thus, the pusher and support member are integral to the shaft, rather than being separately attachable to it.

Sprague does not disclose a pusher and support member that are integral to the shaft. Instead, the portion 5 (referred to as a pusher) is separately attached to the portion 20 (referred to as a shaft) while the portion 24/10 (referred to as a support member) is integral with the portion 20. Furthermore, Sprague emphasizes the importance of the portion 5 being able to be attached to and removed from the portion 20 so that the portion 5 can be repeatedly used to install multiple steps 100 in a structure. Because the pusher is not integral with the shaft, Sprague fails to disclose all of the elements of claims 1 and 16, and therefore, claims 1 and 16 are allowable over Sprague.

It should be further noted that Malmgren also fails to disclose the support member and the pusher being integral with the second end of the shaft because Malmgren shows the shaft portion (portion near threads 9) being connected to one side of the support

portion 6 while the pusher portion (portion near hexagonal end) is connected to another side of the support portion 6 rather than to the same end of the shaft portion.

Dependent claims 2-15 and 17 depend from allowable base claims and are also allowable for at least the same reasons. Furthermore, one or more of claims 2-15 and 17 recite additional features that are allowable over Sprague. For example, claim 8 recites multiple support members and Sprague, at best, only discloses one (24/10) and does not suggest how or why additional support members are possible for a single shaft 20.

### 103 Rejections

Claims 7, 9, and 18-20 stand rejected under 35 USC 103(a) as being unpatentable over Sprague in view of Malmgren (US Pat 5,887,677). Applicants respectfully traverse these rejections.

Claims 7 and 9 are allowable over the cited combination, as noted above, due to their dependence upon allowable base claims. Additionally, claims 7 and 9 recite a ring support member. The Office Action concedes that Sprague fails to teach a ring but states that Malmgren discloses a ring support member. However, a ring closes on itself so that something attached to the ring cannot escape. Malmgren discloses a cork-screw portion 6 that does NOT close on itself as a ring does, and something attached to portion 6 could become free by sliding to the end opposite the threads 9. In fact, Malmgren discloses portion 6 only as being a safety foothold rather than something to secure an object. Accordingly, Malmgren fails to disclose a ring support member such that claims 7 and 9 are allowable over the cited combination for this additional reason.

Amended claim 18 recites in part a powder driven tool including a powder cartridge and a trigger for actuating a piston within a barrel and a support device including a pusher on a first end where the pusher is located at least partially within the barrel and is adapted to receive force applied from the piston for driving a second end of the support device into a pole. Thus, contrary to the Office Action, the powder driven tool is indeed an element of claim 18. The cited references fail to disclose such a powder driven tool in combination with a support device. Instead, Sprague refers to a rotary device such as an electric drill for installing the device while Malmgren does not discuss tools used to install the device. Therefore, claim 18 is allowable over the cited

references. Dependent claims 19 and 20 depend from an allowable base claim and are also allowable for the same reasons, but the recitations of claims 19 and 20 including the muzzle extender and extension pole are also not present in the cited references.

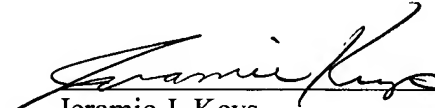
Conclusion

Applicants assert that the application including claims 1-20 is now in condition for allowance. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees beyond a one month extension of time and a fee for each terminal disclaimer are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

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